

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

DEBORAH N. MOSS, individually and as
Personal Representative of the Estate of
James B. Moss, Sr.,

Plaintiff,

v.

Case No. 3:20-cv-491-J-34MCR

METROPOLITAN CASUALTY
INSURANCE COMPANY,

Defendant.

ORDER

THIS CAUSE is before the Court on Plaintiff's Motion to Remand to State Court and Supporting Memorandum of Law (Dkt. No. 16; Motion) filed on June 11, 2020. In the Motion, Plaintiff argues that this matter should be remanded because Defendant has failed to prove that the amount in controversy exceeds \$75,000.00. See Motion at 4-6. In addition, Plaintiff seeks an award of attorney's fees pursuant to 28 U.S.C. § 1447(c). See id. at 7-8. In response, Defendant asserts that the amount in controversy does exceed \$75,000.00 and that Plaintiff is not entitled to an award of attorney's fees. See Defendant, Metropolitan Casualty Insurance Company's, Memorandum of Law in Opposition to Plaintiff's Motion to Remand (Dkt. No. 17; Response). Upon review of the Motion and Response, the Court finds that Defendant has shown by a preponderance of the evidence that the amount in controversy requirement is satisfied.¹ In reaching this conclusion, the

¹ Plaintiff has filed an Unopposed Motion for Leave to File a Reply in Further Support of Motion for Remand (Dkt. No. 19). However, in light of the Court's ruling, a reply is not warranted, and the motion will be denied as moot.

Court observes that what matters for purposes of determining the amount in controversy is “the amount that will be put at issue in the course of the litigation” not “the amount the plaintiff will recover.” Anderson v. Wilco Life Ins. Co., 943 F.3d 917, 925 (11th Cir. 2019); McDaniel v. Fifth Third Bank, 568 F. App’x 729, 730 (11th Cir. 2014) (“There is no doubt that when analyzing the amount in controversy, the district court is precluded from inquiring into the amount a party is likely to receive on the merits.”). Thus, Plaintiff’s contention regarding the actual damages presently available, as opposed to the amount Plaintiff seeks to recover, is misplaced. Accordingly, it is

ORDERED:

1. Plaintiff’s Motion to Remand to State Court and Supporting Memorandum of Law (Dkt. No. 16) is **DENIED**.
2. Plaintiff’s Unopposed Motion for Leave to File a Reply in Further Support of Motion for Remand (Dkt. No. 19) is **DENIED as moot**.

DONE AND ORDERED in Jacksonville, Florida this 21st day of July, 2020.


MARCIA MORALES HOWARD
United States District Judge

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Copies to:

Counsel of Record